



General Assembly

Amendment

January Session, 2017

LCO No. 6260



Offered by:

SEN. GERRATANA, 6th Dist.

SEN. SOMERS, 18th Dist.

REP. STEINBERG, 136th Dist.

REP. SRINIVASAN, 31st Dist.

To: Subst. Senate Bill No. **901**

File No. 473

Cal. No. 249

***"AN ACT CONCERNING THE DEPARTMENT OF PUBLIC
HEALTH'S RECOMMENDATION REGARDING ADOPTION OF A
MODEL FOOD CODE."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsection (a) of section 19a-36 of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective*
5 *January 1, 2018*):

6 (a) The Commissioner of Public Health shall establish a Public
7 Health Code and, from time to time, amend the same. The Public
8 Health Code may provide for the preservation and improvement of
9 the public health.

10 [(1) Said code may include regulations pertaining to retail food
11 establishments, including, but not limited to, food service

12 establishments, catering food service establishments and itinerant food
13 vending establishments and the required permitting from local health
14 departments or districts to operate such establishments.]

15 [(2)] (1) Drainage and toilet systems to be installed in any house or
16 building arranged or designed for human habitation, or field
17 sanitation provided for agricultural workers or migratory farm
18 laborers, shall conform to minimum requirements prescribed in said
19 code.

20 [(3)] (2) Said code may include regulations requiring toilets and
21 handwashing facilities in large stores, as defined in such regulations,
22 in shopping centers and in places dispensing food or drink for
23 consumption on the premises, for the use of patrons of such
24 establishments, except that the provisions of such regulations shall not
25 apply to such establishments constructed or altered pursuant to plans
26 and specifications approved or building permits issued prior to
27 October 1, 1977.

28 [(4)] The provisions of such regulations (A) with respect to the
29 requirement of employing a qualified food operator and any reporting
30 requirements relative to such operator, shall not apply to an owner or
31 operator of a soup kitchen who relies exclusively on services provided
32 by volunteers, and (B) shall not prohibit the sale or distribution of food
33 at a noncommercial function such as an educational, religious, political
34 or charitable organization's bake sale or potluck supper provided the
35 seller or person distributing such food maintains such food under the
36 temperature, pH level and water activity level conditions that will
37 inhibit the rapid and progressive growth of infectious or toxigenic
38 microorganisms. For the purposes of this section, a "noncommercial
39 function" means a function where food is sold or distributed by a
40 person not regularly engaged in the for profit business of selling such
41 food.

42 (5) The provisions of such regulations with respect to qualified food
43 operators shall require that the contents of the test administered to

44 qualified food operators include elements testing the qualified food
45 operator's knowledge of food allergies.]

46 [(6)] (3) Each regulation adopted by the Commissioner of Public
47 Health shall state the date on which it shall take effect, and a copy of
48 the regulation, signed by the Commissioner of Public Health, shall be
49 filed in the office of the Secretary of the State and a copy sent by said
50 commissioner to each director of health, and such regulation shall be
51 published in such manner as the Commissioner of Public Health may
52 determine.

53 [(7)] (4) Any person who violates any provision of the Public Health
54 Code shall be guilty of a class C misdemeanor.

55 Sec. 2. (NEW) (*Effective October 1, 2017*) (a) As used in this section
56 and sections 3 to 8, inclusive, of this act:

57 (1) "Catering food service establishment" means a business that is
58 involved in the (A) sale or distribution of food and drink prepared in
59 bulk in one geographic location for retail service in individual portions
60 in another location, or (B) preparation and service of food in a public
61 or private venue that is not under the ownership or control of the
62 operator of such business;

63 (2) "Certified food protection manager" means a food employee that
64 has supervisory and management responsibility and the authority to
65 direct and control food preparation and service;

66 (3) "Class 1 food establishment" means a food establishment that
67 only offers for retail sale (A) prepackaged food that is not time or
68 temperature controlled for safety, (B) commercially processed food
69 that (i) is time or temperature controlled for safety and heated for hot
70 holding, but (ii) is not permitted to be cooled, or (C) food prepared in
71 the establishment that is not time or temperature controlled for safety;

72 (4) "Class 2 food establishment" means a retail food establishment
73 that does not serve a population that is highly susceptible to food-

74 borne illnesses and offers a limited menu of food that is prepared,
75 cooked and served immediately, or that prepares and cooks food that
76 is time or temperature controlled for safety and may require hot or
77 cold holding, but that does not involve cooling;

78 (5) "Class 3 food establishment" means a retail food establishment
79 that (A) does not serve a population that is highly susceptible to food-
80 borne illnesses, and (B) has an extensive menu of foods, many of which
81 are time or temperature controlled for safety and require complex
82 preparation, including, but not limited to, handling of raw ingredients,
83 cooking, cooling and reheating for hot holding;

84 (6) "Class 4 food establishment" means a retail food establishment
85 that serves a population that is highly susceptible to food-borne
86 illnesses, including, but not limited to, preschool students, hospital
87 patients and nursing home patients or residents, or that conducts
88 specialized food processes, including, but not limited to, smoking,
89 curing or reduced oxygen packaging for the purposes of extending the
90 shelf life of the food;

91 (7) "Cold holding" means maintained at a temperature of forty-one
92 degrees Fahrenheit or below;

93 (8) "Commissioner" means the Commissioner of Public Health or
94 the commissioner's designee;

95 (9) "Contact hour" means a minimum of fifty minutes of a training
96 activity;

97 (10) "Department" means the Department of Public Health;

98 (11) "Director of health" means the director of a local health
99 department or district health department appointed pursuant to
100 section 19a-200 or 19a-242 of the general statutes;

101 (12) "Food code" means the food code administered under section 3
102 of this act;

103 (13) "Food establishment" means an operation that (A) stores,
104 prepares, packages, serves, vends directly to the consumer or
105 otherwise provides food for human consumption, including, but not
106 limited to, a restaurant, catering food service establishment, food
107 service establishment, temporary food service establishment, itinerant
108 food vending establishment, market, conveyance used to transport
109 people, institution or food bank, or (B) relinquishes possession of food
110 to a consumer directly, or indirectly through a delivery service,
111 including, but not limited to, home delivery of grocery orders or
112 restaurant takeout orders or a delivery service that is provided by
113 common carriers. "Food establishment" does not include a vending
114 machine, as defined in section 21a-34 of the general statutes, a private
115 residential dwelling in which food is prepared under section 21a-62a of
116 the general statutes or a food manufacturing establishment, as defined
117 in section 21a-151 of the general statutes;

118 (14) "Food inspector" means a director of health, or his or her
119 authorized agent, or a registered sanitarian who has been certified as a
120 food inspector by the commissioner;

121 (15) "Food inspection training officer" means a certified food
122 inspector who has received training developed or approved by the
123 commissioner and been authorized by the commissioner to train
124 candidates for food inspector certification;

125 (16) "Food-borne illness" means illness, including, but not limited to,
126 illness due to heavy metal intoxications, staphylococcal food
127 poisoning, botulism, salmonellosis, shigellosis, Clostridium
128 perfringens intoxication and hepatitis A, acquired through the
129 ingestion of a common-source food or water contaminated with a
130 chemical, infectious agent or the toxic products of a chemical or
131 infectious agent;

132 (17) "Food-borne outbreak" means illness, including, but not limited
133 to, illness due to heavy metal intoxications, staphylococcal food
134 poisoning, botulism, salmonellosis, shigellosis, Clostridium

135 perfringens intoxication and hepatitis A, in two or more individuals,
136 acquired through the ingestion of common-source food or water
137 contaminated with a chemical, infectious agent or the toxic products of
138 a chemical or infectious agent;

139 (18) "Hot holding" means maintained at a temperature of one
140 hundred thirty-five degrees Fahrenheit or above;

141 (19) "Itinerant food vending establishment" means a vehicle-
142 mounted, self-contained, mobile food establishment;

143 (20) "Permit" means a written document issued by a director of
144 health that authorizes a person to operate a food establishment;

145 (21) "Temporary food service establishment" means a food
146 establishment that operates for a period of not more than fourteen
147 consecutive days in conjunction with a single event or celebration;

148 (22) "Time or temperature controlled for safety" means maintained
149 at a certain temperature or maintained for a certain length of time, or
150 both, to prevent microbial growth and toxin production; and

151 (23) "Variance" means a written document issued by the
152 commissioner that authorizes a modification or waiver of one or more
153 requirements of the food code.

154 Sec. 3. (NEW) (*Effective October 1, 2017*) (a) Not later than January 1,
155 2018, the commissioner shall adopt and administer by reference the
156 United States Food and Drug Administration's Food Code, as
157 amended from time to time, and any Food Code Supplement
158 published by said administration as the state's food code for the
159 purpose of regulating food establishments.

160 (b) The commissioner may adopt regulations, in accordance with
161 the provisions of chapter 54 of the general statutes, to implement the
162 provisions of this section and sections 4 to 8, inclusive, of this act.

163 Sec. 4. (NEW) (*Effective October 1, 2017*) On and after January 1, 2018:

164 (1) No person, firm or corporation shall operate or maintain any
165 food establishment where food or beverages are served or sold to the
166 public in any town, city or borough without obtaining a valid permit
167 or license to operate from the director of health of such town, city or
168 borough, in a form and manner prescribed by the director of health.
169 The director of health shall issue a permit or license to operate a food
170 establishment upon receipt of an application if the food establishment
171 meets the requirements of this section. All food establishments shall
172 comply with the food code.

173 (2) All food establishments shall be inspected by a certified food
174 inspector in a form and manner prescribed by the commissioner. The
175 Commissioner of Public Health may, in consultation with the
176 Commissioner of Consumer Protection, grant a variance for the
177 requirements of the food code if the Commissioner of Public Health
178 determines that such variance would not result in a health hazard or
179 nuisance.

180 (3) No permit to operate a food establishment shall be issued by a
181 director of health unless the applicant has provided the director of
182 health with proof of registration with the department and a written
183 application for a permit in a form and manner prescribed by the
184 department. Temporary food establishments and certified farmers'
185 markets, as defined in section 22-6r of the general statutes, as amended
186 by this act, shall be exempt from registering with the Department of
187 Public Health.

188 (4) Each class 2 food establishment, class 3 food establishment and
189 class 4 food establishment shall employ a certified food protection
190 manager. No person shall serve as a certified food protection manager
191 unless such person has satisfactorily passed a test as part of a food
192 protection manager certification program that is evaluated and
193 approved by an accrediting agency recognized by the Conference for
194 Food Protection as conforming to its standards for accreditation of
195 food protection manager certification programs. A certified food
196 inspector shall verify that the food protection manager is certified

197 upon inspection of the food establishment.

198 Sec. 5. (NEW) (*Effective October 1, 2017*) (a) On and after January 1,
199 2018, no person shall engage in the practice of a food inspector unless
200 such person has obtained a certification from the commissioner in
201 accordance with the provisions of this section. The commissioner shall
202 develop a training and verification program for food inspector
203 certification that shall be administered by the food inspection training
204 officer at a local health department.

205 (1) Each person seeking certification as a food inspector shall submit
206 an application to the department on a form prescribed by the
207 commissioner and present to the department satisfactory evidence that
208 such person (A) is sponsored by the director of health in the
209 jurisdiction in which the applicant is employed to conduct food
210 inspections, (B) possesses a bachelor's degree or three years of
211 experience in a regulatory food protection program, (C) has
212 successfully completed a training and verification program, (D) has
213 successfully completed the field standardization inspection prescribed
214 by the commissioner, and (E) is not involved in the ownership or
215 management of a food establishment located in the applicant's
216 jurisdiction.

217 (2) Each director of health sponsoring an applicant for certification
218 as a food inspector shall submit to the commissioner a form
219 documenting the applicant's qualifications and successful completion
220 of the requirements described in subdivision (1) of this subsection.

221 (3) Certifications issued under this section shall be subject to
222 renewal once every three years. A food inspector applying for renewal
223 of his or her certification shall demonstrate successful completion of
224 twenty contact hours in food protection training, as approved by the
225 commissioner, and reassessment by the food inspection training
226 officer.

227 (b) A certified food inspector shall conduct an inspection of a food
228 establishment in a form and manner prescribed by the commissioner

229 to determine compliance with the food code. The director of health
230 shall ensure all food establishments are inspected at a frequency
231 determined by their risk classification. Such director of health shall
232 evaluate the food establishment's risk classification on an annual basis
233 to determine accuracy. More frequent inspections may be conducted to
234 ensure compliance with the food code. Each food establishment
235 classification shall be inspected pursuant to the following schedule:

236 (1) Class 1 food establishments shall be inspected at intervals not to
237 exceed three hundred sixty days.

238 (2) Class 2 food establishments shall be inspected at intervals not to
239 exceed one hundred eighty days.

240 (3) Class 3 food establishments shall be inspected at intervals not to
241 exceed one hundred twenty days.

242 (4) Class 4 food establishments shall be inspected at intervals not to
243 exceed ninety days.

244 (5) Temporary food service establishments shall be inspected prior
245 to the issuance of a permit to operate and as often as necessary to
246 ensure compliance with the food code.

247 Sec. 6. (NEW) (*Effective October 1, 2017*) If a director of health has
248 reasonable cause to suspect the possibility of a food-borne illness or
249 food-borne outbreak, such director shall complete an investigation and
250 take action to control the illness or outbreak. Such action may include,
251 but shall not be limited to, securing employee morbidity histories,
252 requiring medical and laboratory examinations of an employee,
253 modification of a menu and any other restriction or action deemed
254 necessary by such director of health to control the illness or outbreak.
255 A person who violates any provision of sections 3 to 8, inclusive, of
256 this act, section 22-6r of the general statutes, as amended by this act, or
257 section 22-6s of the general statutes, as amended by this act, or who
258 provides false information during an investigation, refuses to
259 cooperate with an investigation or otherwise impedes an investigation

260 that is conducted under this section or section 4 or 5 of this act shall be
261 guilty of a class C misdemeanor.

262 Sec. 7. (NEW) (*Effective October 1, 2017*) The owner or operator of a
263 food establishment aggrieved by an order to correct any inspection
264 violations identified by the food inspector or to hold, destroy or
265 dispose of unsafe food may appeal such order to the director of health
266 not later than forty-eight hours after issuance of such order. The
267 director of health shall review the request for an appeal and, upon
268 conclusion of the review, may vacate, modify or affirm such order. If
269 affirmed by the director of health, the corrective actions specified by
270 the food inspector shall be so ordered by the director of health. An
271 owner or operator of a food service establishment who is aggrieved by
272 the affirmation or modification of an order by the director of health,
273 including, but not limited to, an order to suspend the permit or license
274 to operate the food service establishment, may appeal to the
275 department pursuant to section 19a-229 of the general statutes. During
276 such appeal, the order shall remain in effect unless the commissioner
277 orders otherwise.

278 Sec. 8. (NEW) (*Effective October 1, 2017*) (a) Nothing in this section or
279 sections 3 to 7, inclusive, of this act shall limit the authority of directors
280 of health under chapter 368e or 368f of the general statutes.

281 (b) For purposes of this section and sections 3 to 7, inclusive, of this
282 act, the provisions of the general statutes and regulations of
283 Connecticut state agencies pertaining to certified farmers' markets
284 shall not limit the authority of the Commissioner of Agriculture and
285 the director of health to require a farmer to comply with the
286 requirements of sections 22-6r and 22-6s of the general statutes, as
287 amended by this act.

288 (c) The provisions of the food code that concern the employment of
289 a certified food manager and any reporting requirements relative to
290 such certified food manager (1) shall not apply to (A) an owner or
291 operator of a soup kitchen that relies exclusively on services provided

292 by volunteers, (B) any volunteer who serves meals from a nonprofit
293 organization, including a temporary food service establishment and a
294 special event sponsored by a nonprofit civic organization, including,
295 but not limited to, school sporting events, little league food booths,
296 church suppers and fairs, or (C) any person who serves meals to
297 individuals at a registered congregate meal site funded under Title III
298 of the Older Americans Act of 1965, as amended from time to time,
299 that were prepared under the supervision of a certified food manager,
300 and (2) shall not prohibit the sale or distribution of food at (A) a bed
301 and breakfast establishment that prepares and offers food to guests,
302 provided the operation is owner-occupied and the total building
303 occupant load is not more than sixteen persons, including the owner
304 and occupants, has no provisions for cooking or warming food in the
305 guest rooms, breakfast is the only meal offered and the consumer of
306 such operation is informed by statements contained in published
307 advertisements, mailed brochures and placards posted in the
308 registration area that the food is prepared in a kitchen that is not
309 regulated and inspected by the local health director, and (B) a
310 noncommercial function, including, but not limited to, an educational,
311 religious, political or charitable organization's bake sale or potluck
312 supper, provided the seller or person distributing the food maintains
313 the food at the temperature, pH level and water activity level
314 conditions that will inhibit the growth of infectious or toxigenic
315 microorganisms. For the purposes of this subsection, "noncommercial
316 function" means a function where food is sold or distributed by a
317 person not regularly engaged in the business of selling such food for
318 profit.

319 Sec. 9. Subsection (d) of section 22-6r of the general statutes is
320 repealed and the following is substituted in lieu thereof (*Effective*
321 *October 1, 2017*):

322 (d) A food [service] establishment, as defined in section [19-13-B42
323 of the regulations of Connecticut state agencies] 2 of this act, may
324 purchase farm products that have been produced and are sold in
325 conformance with the applicable regulations of Connecticut state

326 agencies at a farmers' market, provided such establishment requests
327 and obtains an invoice from the farmer or person selling farm
328 products. The farmer or person selling farm products shall provide to
329 the food service establishment an invoice that indicates the source and
330 date of purchase of the farm products at the time of the sale.

331 Sec. 10. Section 22-6s of the general statutes is repealed and the
332 following is substituted in lieu thereof (*Effective October 1, 2017*):

333 (a) For purposes of this section: (1) "Certified farmers' market" has
334 the same meaning as provided in section 22-6r, as amended by this act,
335 and (2) ["food service establishment"] "food establishment" has the
336 same meaning as provided in section [19-13-B42 of the regulations of
337 Connecticut state agencies] 2 of this act.

338 (b) Any permit or license to operate a food [service] establishment
339 that is issued by a municipal health department or health district to a
340 farmer for the purpose of such farmer's participation in a certified
341 farmers' market within the jurisdiction of such municipal health
342 department or health district shall be valid for the purpose of
343 operating a food [service] establishment at any certified farmers'
344 market in the state, provided (1) such operation is in accordance with
345 the menu items and food preparation processes approved by such
346 issuing municipal health department or health district, or (2) such
347 operation utilizes menu items or food preparation processes that are
348 substantially similar to the menu items and food preparation processes
349 approved by such issuing municipal health department or health
350 district. Not later than fourteen days prior to commencing the
351 operation of a food [service] establishment in a municipality that is
352 within the jurisdiction of a municipal health department or health
353 district that did not issue a permit or license to such farmer, a notice of
354 intent to commence such operation shall be sent by such farmer to the
355 municipal health department or health district with such jurisdiction.
356 Such notice shall contain a copy of the municipal health department or
357 health district permit or license issued in accordance with this section
358 and a copy of any food service plan developed as part of the

359 application for such permit or license. Any permit or license issued in
360 accordance with the provisions of this section shall be valid for the
361 duration of the calendar year in which such permit or license was
362 issued.

363 (c) Any local director of health may take any regulatory action such
364 director deems necessary against any farmer who operates a food
365 [service] establishment within the jurisdiction of such health
366 department or district, as applicable, in order to ensure that such
367 farmer is in compliance with the Public Health Code, provided no local
368 director of health shall require any farmer to apply for or purchase a
369 permit or license to operate a food [service] establishment if such
370 farmer holds a valid permit or license issued by another municipal
371 health department or health district and is in compliance with the
372 provisions of subsection (b) of this section.

373 (d) Any farmer who operates a food [service] establishment in a
374 certified farmers' market in accordance with this section and the menu
375 items and food preparation processes approved by the municipal
376 health department or health district that issued such permit or license,
377 or who utilizes menu items or food preparation processes that are
378 substantially similar to the menu items and food preparation processes
379 approved by such issuing municipal health department or health
380 district, shall be exempt from the provisions of any ordinance of any
381 municipality or health district concerning the operation of a food
382 [service] establishment. No municipal health department or health
383 district shall require any farmer who applies for a permit or license to
384 operate a food [service] establishment at a certified farmers' market to
385 submit information regarding such farmer's ability to comply with any
386 ordinance of any municipality or health district concerning the
387 operation of such food [service] establishment.

388 Sec. 11. Subsection (a) of section 19a-36f of the general statutes is
389 repealed and the following is substituted in lieu thereof (*Effective*
390 *October 1, 2017*):

391 (a) No person shall use or require the use of disposable, nonsterile
392 or sterile natural rubber latex gloves at a retail food establishment,
393 including, but not limited to, a food [service] establishment, catering
394 food service establishment or itinerant food vending establishment.

395 Sec. 12. Subdivision (2) of subsection (a) of section 38a-313b of the
396 general statutes is repealed and the following is substituted in lieu
397 thereof (*Effective October 1, 2017*):

398 (2) The provisions of subdivision (1) of this subsection shall apply to
399 an insurance policy or rider delivered, issued for delivery, renewed,
400 amended or continued in this state for a food establishment classified
401 as a class [III or class IV] 3 or class 4 food establishment pursuant to
402 regulations adopted under section [19a-36] 3 of this act.

403 Sec. 13. Subsections (a) and (b) of section 52-557l of the general
404 statutes are repealed and the following is substituted in lieu thereof
405 (*Effective October 1, 2017*):

406 (a) Notwithstanding any provision of the general statutes, any
407 person, including but not limited to a seller, farmer, processor,
408 distributor, wholesaler or retailer of food, who donates an item of food
409 for use or distribution by a nonprofit organization, [or] nonprofit
410 corporation, political subdivision of the state or senior center and any
411 nonprofit organization or nonprofit corporation that collects donated
412 food and distributes such food to other nonprofit organizations or
413 nonprofit corporations or a political subdivision of the state or senior
414 center free of charge or for a nominal fee shall not be liable for civil
415 damages or criminal penalties resulting from the nature, age, condition
416 or packaging of the food, unless it is established that the donor, at the
417 time of making the donation, or the nonprofit organization or
418 nonprofit corporation, at the time of distributing the food, knew or had
419 reasonable grounds to believe that the food was (1) adulterated, as
420 defined in section 21a-101, or (2) not fit for human consumption.

421 (b) Notwithstanding any provision of the general statutes, any food
422 establishment classified as a class [III or class IV] 3 or class 4 food

423 establishment pursuant to regulations adopted under section [19a-36] 3
 424 of this act, that donates perishable food for use or distribution by a
 425 temporary emergency shelter in accordance with the provisions set
 426 forth in section 38a-313b, as amended by this act, shall not be liable for
 427 civil damages or criminal penalties resulting from the nature, age,
 428 condition or packaging of the food, unless it is established that the
 429 donor, at the time of making the donation, knew or had reasonable
 430 grounds to believe that the food was (1) embargoed or ordered
 431 destroyed by the Department of Public Health or a local director of
 432 health, or an authorized agent thereof, (2) adulterated, as defined in
 433 section 21a-101, or (3) not fit for human consumption.

434 Sec. 14. Sections 19a-36c, 19a-36d and 19a-36e of the general statutes
 435 are repealed. (*Effective October 1, 2017*)"

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2018</i>	19a-36(a)
Sec. 2	<i>October 1, 2017</i>	New section
Sec. 3	<i>October 1, 2017</i>	New section
Sec. 4	<i>October 1, 2017</i>	New section
Sec. 5	<i>October 1, 2017</i>	New section
Sec. 6	<i>October 1, 2017</i>	New section
Sec. 7	<i>October 1, 2017</i>	New section
Sec. 8	<i>October 1, 2017</i>	New section
Sec. 9	<i>October 1, 2017</i>	22-6r(d)
Sec. 10	<i>October 1, 2017</i>	22-6s
Sec. 11	<i>October 1, 2017</i>	19a-36f(a)
Sec. 12	<i>October 1, 2017</i>	38a-313b(a)(2)
Sec. 13	<i>October 1, 2017</i>	52-557l(a) and (b)
Sec. 14	<i>October 1, 2017</i>	Repealer section